

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ANTHONY J. RICHARDSON,

Plaintiff,

v.

No. 10-1288-PK
OPINION AND ORDER

MAX WILLIAMS, et al.,

Defendants.

Anthony J. Richardson
12735420
EOCI
2500 Westgate
Pendleton, Oregon 97801
Pro se

Andrew D. Hallman
State of Oregon Department of Justice
Trial Division
1162 Court Street, NE
Salem, Oregon 97301
Attorney for defendants

SIMON, District Judge:

On November 4, 2011, Magistrate Judge Paul Papak filed Findings and
Recommendations in this case (doc. # 36). Judge Papak recommended that the defendants'

motion to dismiss (doc. # 13) be granted. No objections have been filed.

Under the Federal Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, “[t]here is no indication that Congress, in enacting [the Magistrates Act] intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No objections having been made, the court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Sullivan’s findings and recommendations for clear error on the face of the record. No such error is apparent.

Accordingly, I ADOPT Magistrate Judge Papak's Findings and Recommendation (doc. # 36). This case is dismissed and all pending motions are denied as moot.

IT IS SO ORDERED.

Dated this 7th day of December, 2011.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge